IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

Crl.L.P..No. 91 of 2007()

CC.164/2003 of J.M.F.C.-II, KANNUR

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PETITIONER/COMPLAINANT:

A. KELAN, S/O. KUNHAPPAN,
VASANTHA NIVAS, CHELERI, KANNADIPARAMBA,
TALIPARAMBA TALUK, KANNUR.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS: ACCUSED 1 TO 4 & STATE:

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1. E.V. SUMATHI, D/O. RAMUNNI,
THIRUVANGAD, THALASSERY TALUK.

2. SHIJITH, S/O. ASHOKAN,
NARAYANI NILAYAM, PATHIRIYAD AMSOM,KELALLUR DESOM,
P.O. MAMBRAM, THALASSERY TALUK.

3. JAMES, S/O. THOMAS,
ARALAM AMSOM, DESOM, THALASSERY TALUK.

4. MEENAKSHI, W/O. RAJU,
SUNIL VILLA, KADATHANAD, VADAKARA, KOZHIKODE.

5. STATE OF KERALA,
REPRSENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R5-BY P.P.SRI.P. RAVINDRA BABU

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. THANKAPPAN, J.

Crl.L.P.NO.91 OF 2007

Dated this the 26th day of February, 2007.

O R D E R

This petition is for special leave for filing an appeal against the order passed in C.C.No.164/2003 on the file of the judicial Magistrate of First Class-II, Kannur. The above calendar case was on a complaint filed by the petitioner/complainant alleging that as per Ext.P2 agreement, the petitioner and respondents 1 to 4 have entered into an agreement for bidding the toddy shops under the Thalassery range for the period 1999-2000 for an amount of Rs.19,11,000/=. Subsequently, respondents 1 to 4 tried to dispose of the toddy shops in favour of the third party without the consent and knowledge of the petitioner/complainant. Hence, the petitioner filed a complaint alleging the commission of the offences under Sections 420 and 406 of the I.P.C against respondents 1 to 4. The trial court had considered the complaint and found that the petitioner/complainant failed to prove that respondents 1 to 4 have committed any offence punishable under Sections

420 and 406 of the I.P.C and hence they were acquitted. The learned counsel appearing for the petitioner submits that as per Ext.P2 agreement the toddy shops of the Thalassery range have been bid by the petitioner along with respondents 1 to 4 and respondents 1 to 4 tried to transfer the toddy shops to a third party without his consent and thereby they have cheated the petitioner. It is come out in evidence that as per Ext.P2 agreement the toddy shops were bid by the petitioner along with respondents 1 to 4 as per the terms and conditions contained in that agreement. As the attitude of respondents 1 to 4 was against the petitioner, he filed a suit against respondents 1 to 4 for a temporary injunction of transferring the toddy shops to the third party and the court had already issued temporary injunction against respondents 1 to 4. Subsequently, the suit was also withdrawn on compromising the matter and that apart, the trial court found that on the basis of Ext.P2 agreement, the petitioner cannot prove any case against respondents 1 to 4 under Sections 420 and 406 of the I.P.C.

This Court is of the view that the trial court had

considered the entire evidence and rightly acquitted respondents 1 to 4. Accordingly, the judgment of the trial court requires no interference by this Court. Hence, the special leave petition stands dismissed as meritless.

K. THANKAPPAN, JUDGE.

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